

## § 164.532

## 45 CFR Subtitle A (10–1–02 Edition)

### § 164.530 Administrative requirements.

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(c) *Standard: Safeguards.* \* \* \*

(2) *Implementation specifications: Safeguards.*

(i) \* \* \*

(ii) A covered entity must reasonably safeguard protected health information to limit incidental uses or disclosures made pursuant to an otherwise permitted or required use or disclosure.

\* \* \* \*

### § 164.532 Transition provisions.

(a) *Standard: Effect of prior consents and authorizations.* Notwithstanding other sections of this subpart, a covered entity may continue to use or disclose protected health information pursuant to a consent, authorization, or other express legal permission obtained from an individual permitting the use or disclosure of protected health information that does not comply with §§ 164.506 or 164.508 of this subpart consistent with paragraph (b) of this section.

(b) *Implementation specification: Requirements for retaining effectiveness of prior consents and authorizations.* Notwithstanding other sections of this subpart, the following provisions apply to use or disclosure by a covered entity of protected health information pursuant to a consent, authorization, or other express legal permission obtained from an individual permitting the use or disclosure of protected health information, if the consent, authorization, or other express legal permission was obtained from an individual before the applicable compliance date of this subpart and does not comply with §§ 164.506 or 164.508 of this subpart.

(1) If the consent, authorization, or other express legal permission obtained from an individual permits a use or disclosure for purposes of carrying out treatment, payment, or health care operations, the covered entity may, with respect to protected health information that it created or received before the applicable compliance date of this subpart and to which the consent, authorization, or other express legal permission obtained from an individual applies, use or disclose such information for purposes of carrying out treat-

ment, payment, or health care operations, provided that:

(i) The covered entity does not make any use or disclosure that is expressly excluded from the a consent, authorization, or other express legal permission obtained from an individual; and

(ii) The covered entity complies with all limitations placed by the consent, authorization, or other express legal permission obtained from an individual.

(2) If the consent, authorization, or other express legal permission obtained from an individual specifically permits a use or disclosure for a purpose other than to carry out treatment, payment, or health care operations, the covered entity may, with respect to protected health information that it created or received before the applicable compliance date of this subpart and to which the consent, authorization, or other express legal permission obtained from an individual applies, make such use or disclosure, provided that:

(i) The covered entity does not make any use or disclosure that is expressly excluded from the consent, authorization, or other express legal permission obtained from an individual; and

(ii) The covered entity complies with all limitations placed by the consent, authorization, or other express legal permission obtained from an individual.

(3) In the case of a consent, authorization, or other express legal permission obtained from an individual that identifies a specific research project that includes treatment of individuals:

(i) If the consent, authorization, or other express legal permission obtained from an individual specifically permits a use or disclosure for purposes of the project, the covered entity may, with respect to protected health information that it created or received either before or after the applicable compliance date of this subpart and to which the consent or authorization applies, make such use or disclosure for purposes of that project, provided that the covered entity complies with all limitations placed by the consent, authorization, or other express legal permission obtained from an individual.

(ii) If the consent, authorization, or other express legal permission obtained